

Senate Bill No. 626

CHAPTER 89

An act to amend Sections 3, 5, 12, 13, and 13.1 of, to add Section 12.1 to, and to repeal Section 7 of, the Lake County Flood Control and Water Conservation District Act (Chapter 1544 of the Statutes of 1951), relating to the Lake County Flood Control and Water Conservation District.

[Approved by Governor July 12, 1999. Filed with
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LEGISLATIVE COUNSEL'S DIGEST

SB 626, Chesbro. Lake County Flood Control and Water Conservation District.

(1) The Lake County Flood Control and Water Conservation District authorizes the board of supervisors of the Lake County Flood Control and Water Conservation District to establish zones within the district.

This bill would authorize the board of supervisors to modify and dissolve zones within the district in accordance with prescribed procedures.

(2) The act requires the board of the district to appoint a commission and authorizes the board to delegate any or all of its powers to the commission.

This bill would repeal that provision.

(3) The act authorizes the board of the district to levy ad valorem taxes or assessments upon real property in the district or in the zones of the district in accordance with prescribed provisions.

This bill would revise those provisions and would provide that the district may levy and collect special taxes and benefit assessments in the district or any zone of the district pursuant to specified provisions of law.

(4) The act authorizes the board to impose assessments, in accordance with specified provisions, to pay for the costs of operation and maintenance of certain works or improvements that have been constructed by the state or the federal government.

This bill would revise those provisions and would authorize the board to impose special taxes and benefit assessments to pay for those costs, as prescribed.

The people of the State of California do enact as follows:

SECTION 1. Section 3 of the Lake County Flood Control and Water Conservation District Act (Chapter 1544 of the Statutes of 1951) is amended to read:

Sec. 3. (a) The board of supervisors of the district created by this act, acting in the manner and within the terms provided in Section 12 of this act, may establish, modify, and dissolve zones within the district without reference to boundaries of other zones, and may institute, operate, and maintain projects for the specific benefit of those zones.

(b) Before proceeding with the establishment, modification, or dissolution of any zone, the exterior boundaries of which will include any land lying within the exterior boundaries of any chartered or incorporated city within the district, the board of supervisors of the district shall first obtain the concurrence of that city to conduct that proceeding; and that concurrence shall be evidenced by a resolution or ordinance adopted by a majority of the members of the city council of that city or by a vote of a majority of the qualified electors residing in that city or portion of that city to be included in that zone, voting at any regular or special election on the proposition; and the election shall be held as provided by law for holding a municipal election in that city and the cost of the election shall be paid by the city.

SEC. 2. Section 5 of the Lake County Flood Control and Water Conservation District Act (Chapter 1544 of the Statutes of 1951) is amended to read:

Sec. 5. The district is hereby declared to be a body corporate and politic and may do all of the following:

1. Have perpetual succession.
2. Sue and be subject to suit in the name of said district.
3. Adopt a seal.
4. Acquire by grant, purchase, lease, gift, devise, contract, construction, or otherwise, and hold, use, enjoy, let, and dispose of real and personal property of every kind, including lands, structures, buildings, rights-of-way, easements, water and water rights, and privileges and construct, maintain, alter, and operate any and all works or improvements, within or outside the district, necessary or proper to carry out any of the objects of purposes of this act and convenient to the full exercise of its powers, and complete, extend, add to, alter, remove, repair or otherwise improve any works, or improvements, or property acquired by it as authorized by this act.

5. Conserve all waters within the district, and control the flood and storm waters of the district and the flood and storm waters of streams that have their sources outside the district, but which streams and floodwaters thereof, flow into the district, and protect from damage from those flood or storm waters the watercourses, watersheds, harbors, public highways, life and property in the district, and the



watercourses outside the district of streams flowing into the district, and to develop waters within or outside the district for domestic irrigation, industrial, and recreational uses, and construct works therefor, including works for the storage and delivery of water; provided further, that none of the provisions of this act shall preclude the exercise by any other political subdivision that may now or hereafter exist, wholly or in part, within the district from exercising its powers, although the powers may be of the same nature as the powers of the district. Any other political subdivision may, by written agreement with the district, provide for the use, or joint use, of property or facilities in which that other political subdivision has an interest, or for the use, or joint use, of property or facilities in which the district has an interest.

6. Cooperate and act in conjunction with the federal government, the state, or any of their engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, or with the County of Lake or adjacent counties, or with any other agencies, in the construction of any work for the storage or delivery of all waters within or outside the district for domestic, irrigation, industrial, and recreational uses and for the conservation of waters within the district, for the controlling of flood or storm waters of or flowing into the district, or for the protection of life or property in the district.

7. Carry on technical and other investigations of all kinds, make measurements, collect data and make analyses, studies, and inspections pertaining to the beneficial use of waters within or outside the district, including domestic, irrigation, industrial, and recreational uses and the conservation of water and the control of floods both within and outside the district, and for those purposes the district shall have the right of access through its authorized representatives to all properties within the district. The district, through its authorized representatives may enter upon those lands and make examinations, surveys, and maps thereof.

8. Enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; acquire by purchase, lease, contract, gift, devise, or other legal means all lands and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of the works, enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might be lawfully acquired or owned by the district.



9. Incur indebtedness and issue bonds in the manner provided in this act.

10. Cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district, and to carry out any of the purposes of this act, in the manner provided in this act.

11. Make contracts, and employ labor, and do all acts necessary for the full exercise of all powers vested in the district or any of the officers thereof by this act.

12. Exercise the right of eminent domain, either within or outside the district, to take any property necessary to carry out any of the objects or purposes of this act. The district in exercising that power shall, in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cable, poles, of any public utility that is required to be moved to a new location.

The district shall not condemn property outside the County of Lake unless the consent of the governing board of the county, in which the property to be condemned is located, has first been obtained.

Nothing in this act contained shall be construed as in any way affecting the plenary power of any existing city and county or municipal utility district to provide for a water supply for that city and county or municipal utility district, or as affecting the absolute control of any properties of that city and county or municipal utility district necessary for that water supply and nothing herein contained shall be construed as vesting any power of control over those properties in the district or in any officer thereof, or in any person referred to in this act.

13. Provide for the operation and maintenance of any works of any kind or channelways, which may be built or operated by the state or the federal government without cost to the district, for the control or disposition of flood and storm waters within the district whether those waters originate within or outside the district.

14. Contract with the County of Lake, because of the interest of the County of Lake in the general welfare and preservation and promotion of land values in the county and in the maintenance, construction and improvement of public roads, bridges and other county property within any zone that may be damaged or destroyed by those flood and storm waters and that will be protected by proper control and disposition of those waters, for the participation by that county, on a percentage or other appropriate basis, in the amount or amounts that may be taxed or assessed from time to time against any lands in any zone by any taxing or assessing agency or authority, including the district, to provide funds for the operation and maintenance of any works of any kind or channelways which may be built, maintained or operated by the state or the federal government



or the district for the benefit of that zone; and the County of Lake may enter into that contract with the district.

15. Levy assessments in any zone, on the basis of benefits as provided in Section 13 or 13.1 of this act, to raise funds for payment of expenses of operation and of works or channelways in that zone and the cost of levying and collecting those assessments.

16. Levy and collect special taxes in the district or any zone in accordance with Section 13 of this act.

17. Levy and collect benefit assessments in the district or any zone in accordance with Section 13 of this act.

SEC. 3. Section 7 of the Lake County Flood Control and Water Conservation District Act (Chapter 1544 of the Statutes of 1951) is repealed.

SEC. 4. Section 12 of the Lake County Flood Control and Water Conservation District Act (Chapter 1544 of the Statutes of 1951) is amended to read:

Sec. 12. (a) The board may institute proceedings for the formation of single zones and also institute projects for single zones and joint projects for two or more zones that may involve the financing, constructing, maintaining, operating, extending, repairing or otherwise improving any work or improvement of common benefit to that zone or participating zones. The board may also institute separate projects for operation and maintenance of works or improvements for any zones whether the works or improvements have been constructed by the board or by the state or the federal government or both. Any zone shall include, as far as practicable, all lands that will be benefited by any project proposed for that zone.

(b) Proceeding for the formation of any zone and for the establishment of any project for that zone may be conducted jointly. For the purpose of establishing any zone or participating zones or of acquiring authority to proceed with that project, the board shall adopt a resolution specifying its intention to establish that zone or zones or to undertake that project, or both thereof, together with the engineering and other estimates of the cost of same to be borne by the particular zone and, in the case of participating zones, the proportionate cost to be borne by each of the participating zones and fixing a time and place for public hearing of that resolution; and that resolution shall refer to a map or maps showing the boundaries of each zone and the general location and general construction of that project. The resolution shall also describe the boundaries of any zone proposed to be established; otherwise adequate reference to any established zone involving the project shall be sufficient.

(c) Notice of the hearing shall be given by publication pursuant to Section 6066 of the Government Code in a newspaper of general circulation, circulated in that zone or each of those participating zones, if there be such newspaper, and if there be no such newspaper then by posting notice for two consecutive weeks prior to that



hearing in five public places designated by the board, in that zone or in each of those participating zones. Publication shall be completed at least seven days before the date of the hearing. The notice shall contain a copy of the resolution. The notice shall designate a public place in the zone or in each of the participating zones where a copy or copies of the map or maps of each proposed single zone and any project for a single zone or the joint project for participating zones may be seen by any interested person, and the map shall be posted in each of the public places so designated in the notice at least two weeks prior to the hearing.

(d) At the time and place fixed for the hearing, or at any time to which the hearing may be continued, the board shall consider all written and oral objections to the proposed zone or project.

(e) If it is shown that any land is improperly included in the boundaries proposed for the zone the board, in its order for formation of the zone, shall exclude the land therefrom. If the board shall conclude that lands that will be benefited by the zone are improperly omitted from the proposed zone and the owners thereof have not appeared at the hearing the board shall continue the hearing and direct that notice be given to nonappearing landowners to appear before the board and show cause why their lands should not be included in the proposed zone. The notice shall be given either by publication or posting in the same manner and for the same period as the original notice of hearing or by personal service on each landowner. Any personal service shall be made at least three days prior to the date fixed for further hearing. Proof of the notice given shall be filed with the clerk of the board on or before the day to which the hearing is continued.

(f) The board may continue the hearing from time to time, by order entered upon its minutes, to the end that a full hearing may be had.

(g) If an order for formation of the zone is made at the conclusion of the hearing the order shall describe the exterior boundaries of the zone as determined by the board, shall be signed by the chairman of the board and attested by the clerk thereof and be recorded by the county recorder in his official records.

(h) Upon the conclusion of the hearing, the board may abandon the proposed zone or project or proceed with the same, unless prior to the conclusion of the hearing a written protest against the proposed zone or project signed by a majority in number of the holders of title to real property, or assessable rights therein, or evidence of title thereto, representing one-half or more of the assessed valuation of the real property within the zone or within any of the participating zones, be filed with the board, in which event further proceedings relating to the zone or project shall be suspended for not less than six months following the date of the



conclusion of the hearing, or the proceeding may be abandoned in the discretion of the board.

(i) For the purposes of this section, the last equalized assessment roll of the County of Lake next preceding the filing of the protest shall be prima facie evidence as to the ownership of real property, the names and numbers of the persons who are the holders of title or evidence of title, or assessable rights therein, and as to the assessed valuation of real property within the zone or within any of the participating zones for which the project was initiated.

(j) Executors, administrators, special administrators, and guardians may sign the protest provided for in this act on behalf of the estate represented by them. If the property is assessed in the name of those representatives, that fact shall establish the right of those representatives to sign the protest; if assessed in the name of the decedent, minor or incompetent person, certified copies of the letters or other evidence as may be satisfactory to the board must be produced.

(k) If real property appears to be owned in common or jointly or by a partnership, or if letters of representatives of decedents, minors or guardians are joint, only one of the owners or representatives or partners may sign the protest for all joint owners or representatives or partners; provided, that the party claiming the right to protest for all produces the written consent of his or her coowners or representatives or partners so to do, duly acknowledged by the consenting coowners or representatives or partners in the manner that deeds of real property are required to be acknowledged to entitle those deeds to be recorded in the recorder's office of the county. Any joint owner or partner or tenant in common may sign and thus be counted independently for this proportionate share of the assessed valuation of that real property as shall be determined by division of the evaluation by the number of jointly interested owners thereof.

(l) If real property is assessed in the name of a trustee or trustees, the trustee or trustees shall be deemed to be the person entitled to sign the protest, and if assessed in the name of more than one trustee the right to sign the protest shall be determined in like manner as above provided with respect to coowners.

(m) The protest of any public or quasi-public corporation, private corporation or unincorporated association, may be signed by any person authorized by the board of directors or trustees or other managing body thereof, which authorization shall be in writing; and a proxy executed by an officer or officers thereof, attested by its seal and duly acknowledged, shall constitute sufficient evidence of that authority, and shall be filed with the board.

(n) The owner of any real property or interest therein, appearing upon the assessment roll, which has been assessed in the wrong name or to unknown owners, or which has passed from the owner



appearing as the on the last equalized assessment roll, since the same was made, shall be entitled to sign the protest represented thereby, either by the production of a proxy from the former owner, or by furnishing evidence of his or her ownership by a conveyance duly acknowledged showing the title to be vested in the person claiming the right to sign the protest, accompanied by a certificate of a competent searcher of titles, certifying that a search of the official records of the county, since the date of the conveyance, discloses no conveyance or transfer out from the grantee or transferee named in the conveyance.

(o) If the real property has been contracted to be sold, the vendee shall be entitled to sign the protest, unless that real property is assessed in the name of the vendor, in which event the vendor shall be entitled to so do.

(p) The board may inquire and take evidence for the purpose of identifying any person claiming the right to sign the protest as being the person shown on the assessment roll or otherwise as entitled thereto. And, unless satisfactory evidence is furnished, the right to sign the protest may be denied.

(q) In its resolution of intention on the institution of any project for operation and maintenance of works or improvements for any zone and in the order of adoption of the project, the board shall fix a total amount that it will raise annually thereafter by assessments under Section 13.1 to pay the expenses of that operation and maintenance.

(r) If the board determines that it is necessary to increase the annual assessments to meet operational and maintenance requirements of the works or improvements of any zone, it may increase the assessments in the manner in which the assessments were originally established and in accordance with other applicable provisions of law.

SEC. 5. Section 12.1 is added to the Lake County Flood Control and Water Conservation District Act (Chapter 1544 of the Statutes of 1951), to read:

12.1. (a) The board may institute proceedings for the modification or dissolution of a zone or zones.

(b) Whenever the board determines that it is necessary or desirable for any zone or zones formed pursuant to this act to be modified or dissolved, it shall adopt a resolution declaring its intention to modify or dissolve the zone or zones. The resolution of intention shall state all of the following:

(1) The intention of the board to modify or dissolve the proposed zone or zones.

(2) The reason why the zone or zones is proposed to be modified or dissolved.

(3) That a map or maps showing the exterior boundaries of the zone or zones proposed to be modified or dissolved, is available for inspection by any interested person, at a designated public place.

(4) The time and place for a hearing by the board on the proposed modification or dissolution of the zone or zones.

(5) That at the time and place fixed for the hearing, or at any time to which the hearing may be continued, the board shall consider all written or public testimony regarding the proposed modification or dissolution of the zone or zones.

(c) The notice of hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district, pursuant to Section 6066 of the Government Code, the publication of which shall be at least 14 days prior to the time fixed for the hearing.

(d) At the time and place so fixed, or at any time or place to which the hearing is continued, the board shall hold the hearing provided for by the resolution of intention, at which time any interested person may appear and be heard concerning any matter set forth in the resolution of intention or any matters material thereto. The board shall consider all written and oral objections to the modification or dissolution of the zone or zones. The board may continue the hearing from time to time, by order entered upon its minutes, to the end that a full hearing may be had.

(e) (1) Upon the conclusion of the hearing, the board may abandon the proposed modification or dissolution of the zone or zones or proceed with the proposed modification or dissolution, unless prior to the conclusion of the hearing a written protest against the proposed modification or dissolution of the zone or zones, that is signed by a majority in number of the holders of title to real property, or assessable rights therein, or evidence of title thereto, representing one-half or more of the assessed valuation of the real property within that zone or within any of the participating zones, is filed with the board.

(2) If a written protest is filed, further proceedings relating to that zone or zones shall be suspended for not less than six months following the date of the conclusion of the hearing, or, at the discretion of the board, the proceeding may be abandoned.

(f) If the board makes an order for modification or dissolution of the zone or zones at the conclusion of the hearing, the board, by resolution, shall state that the exterior boundaries of the zone or zones are set forth upon a map on file with the clerk to the board and shall declare the zone or zones modified or dissolved.

(g) For the purposes of this section, the last equalized assessment roll of the County of Lake before the filing of the protest shall be prima facie evidence as to the ownership of real property within the zone or zones. Determination of protest rights shall be in the manner set forth in Section 12.

SEC. 6. Section 13 of the Lake County Flood Control and Water Conservation District Act (Chapter 1544 of the Statutes of 1951) is amended to read:

13. The board, in any year, may do all of the following:

1. Levy ad valorem taxes or assessments upon all property in the district to pay the general administrative costs and expenses of the district, and to carry out any of the objects or purposes of this act of common benefit to the district.

2. Levy ad valorem taxes or assessments upon all property in each or any of the zones and participating zones to pay the costs and expenses of carrying out, constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works or improvements established or to be established within or on behalf of the respective zones, according to the benefits derived or to be derived by the respective zones.

3. Levy assessments upon all real property in each or any of the zones, according to the special benefits derived or to be derived by those properties, to pay the cost and expenses of carrying out any of the objects or purposes of this act of special benefit to those properties, including the constructing, maintaining, operating, extending, repairing or otherwise improving any or all works of improvement established or to be established within or on behalf of the respective zone or zones.

4. Levy and collect special taxes in the district or any zone, pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code, to pay the costs of carrying out, constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works of improvement in the district or zone and the cost of levying and collecting those special taxes.

For the purposes of this provision, “special tax” means any special tax that applies uniformly to all taxpayers or all real property within the district or any zone.

5. Levy and collect benefit assessments in the district or any zone, pursuant to Chapter 6.4 (commencing with Section 54703) of Part 1 of Division 2 of Title 5 of the Government Code, to pay the costs of constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works of improvement in the district or zone and the cost of levying and collecting those benefit assessments.

In the event of project cooperation with any of the governmental bodies as authorized in subdivision 6 of Section 5 of this act, and requiring the making of a contract with any governmental body for the purposes set forth in that subdivision 6 by the terms of which work other than operation and maintenance is to be performed by that governmental body in any specified zone or participating zones, for the particular benefit thereof, and by the proposed contract the

district is to pay to that governmental body, a sum of money in consideration or subvention for the performance of the work by that governmental body, the board may, after proceedings in the manner prescribed in Section 12 of this act, levy and collect either an ad valorem tax, special tax, assessment, or a special benefit assessment upon the real property in that zone, or those participating zones, whereby to raise funds to enable the district to make such payment, in addition to other taxes or assessments herein otherwise provided for.

The taxes or assessments shall be levied and collected together with, and not separately from, taxes for county purposes, and the revenues derived from taxes or assessments shall be paid into the county treasury to the credit of the district, or the proper zone or zones thereof.

The board may control and order the expenditure for the purposes of all funds so raised; provided, however, that no revenues, or portions of the revenue, derived in any zone from the taxes or assessments levied under the provisions of subdivision 2, 3, or 4 of this section shall be expended for constructing, maintaining, operating, extending, repairing, or otherwise improving any works or improvements located in any other zone, except in the case of joint projects, or for projects authorized or established outside the zone or zones, but for the benefit thereof. In cases of projects joint to two or more zones, the zones shall become, and shall be referred to as, participating zones.

SEC. 7. Section 13.1 of the Lake County Flood Control and Water Conservation District Act (Chapter 1544 of the Statutes of 1951) is amended to read:

Sec. 13.1. If, pursuant to Section 12, a zone has been established and the project adopted for the zone is that of operation and maintenance of works or improvements that have been constructed by the state or the federal government, and the board has been requested in writing to provide that operation and maintenance of those works or improvements by that zone, funds for that purpose may, at the discretion of the board, be raised by assessment or special tax as provided in Section 13 of this act.

